



Doug Winnard
312.881.5944
dwinnard@goldmanismail.com

SENT VIA ECF

April 17, 2023

Honorable Valerie Figueredo
Magistrate Judge
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Courtroom 17A
New York, NY 10007-1312

Re: *Sportvision, Inc. et al. v. MLB Advanced Media, L.P.*, No. 18-cv-03025-PGG-VF

Dear Judge Figueredo:

Defendant MLB Advanced Media, L.P. ("MLBAM") writes regarding Plaintiffs' request for expedited briefing in connection with their ten-page Motion to Strike filed on April 14, 2023. (ECF Nos. 439, 440.) Plaintiffs' Motion asks the Court to strike all opinions on the patent invalidity defense of indefiniteness offered by MLBAM's expert, Dr. Ravin Balakrishnan. (ECF No. 439.) Plaintiffs also ask for expedited briefing, giving MLBAM only 3 business days to respond to the Motion. (ECF No. 440 at 9). MLBAM will respond to that Motion in due course. MLBAM writes to ask the Court to deny Plaintiffs' request for expedited briefing, and to set a briefing schedule based on Local Rule 6.1(b), for the following reasons.

First, Plaintiffs delayed for weeks in bringing their Motion. Expert reports were served on March 17, but Plaintiffs did not raise this issue until April 11, nearly four weeks later. (ECF No. 440-2 at 4.) Plaintiffs' complaint—that Dr. Balakrishnan opined on indefiniteness—was apparent from the table of contents of his report. Plaintiffs' weeks-long delay belies their claim that the Motion requires expedited briefing.

Second, Plaintiffs' requested relief substantively affects MLBAM's defenses on the merits. Plaintiffs seek to strike an entire section of MLBAM's expert report, and they filed a ten-page brief to support their request (without citing Rule 37 or any other discovery-related rule). Because Plaintiffs' relief would significantly limit the defenses available to MLBAM at summary judgment or trial, MLBAM requests the default 14 days under Local Rule 6.1(b) to prepare its response.

Finally, Plaintiffs' Motion is effectively a premature *Daubert* challenge. Plaintiffs seek to exclude opinions that MLBAM's expert may offer but has not yet submitted to the Court. MLBAM may seek the same relief for improper opinions from Plaintiffs' experts. But MLBAM will do so at the appropriate time: after expert discovery. Plaintiffs are not prejudiced by having to respond to MLBAM's expert any more than MLBAM is prejudiced in having to respond to Plaintiffs'. No expedited briefing is warranted for a challenge that is more properly addressed at the conclusion of expert discovery.

Accordingly, MLBAM respectfully asks this Court to deny Plaintiffs' request for expedited briefing and

April 17, 2023

Page 2

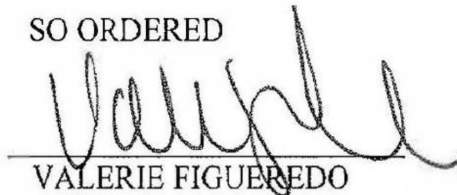
instead provide MLBAM with at least 14 days to respond to Plaintiffs' Motion, pursuant to Local Rule 6.1(b).

Sincerely,



Doug Winnard

SO ORDERED



VALERIE FIGUEREDO

United States Magistrate Judge

Dated: 4-17-2023

Plaintiffs' request for expedited briefing in connection with their pending Motion to Strike (ECF Nos. 439, 440) is **DENIED**. MLBAM's response to the motion is due by no later than **April 28, 2023**. The Court will address Plaintiffs' concern regarding the rebuttal expert report deadline at the discovery conference scheduled for April 20, 2023 at 3:00 p.m.